

HOUSE No. 4214

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, August 16, 2007.

The committee on Bonding, Capital Expenditures and State Assets, to whom was referred the petition (accompanied by bill, House, No. 1235) of Lida E. Harkins and others relative to the disposition of certain property at Medfield State Hospital, reports recommending that the accompanying bill (House, No. 4214) ought to pass.

For the committee,

DAVID L. FLYNN.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN PROPERTY AT
MEDFIELD STATE HOSPITAL.

1 *Whereas*, the deferred operation of this act would tend to defeat
2 its purpose, which is to forthwith provide for the disposition of
3 certain property at Medfield state hospital, therefore it is hereby
4 declared to be an emergency law, necessary for the immediate
5 preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of Chapter 180 of the acts of 2002, is
2 hereby amended by striking out paragraph (b) and inserting in
3 place thereof the following paragraph:—

4 (b) those certain parcels of land described as “Parcel A”,
5 “Parcel B” and “Parcel C” in that certain order of taking recorded
6 in the Norfolk County Registry of Deeds in book 4567, pages 627
7 and 628;

1 SECTION 2. Section 340 of Chapter 149 of the acts of 2004 is
2 hereby repealed.

1 SECTION 3. As used in Sections 3 to 11, inclusive, the
2 following words shall, unless the context clearly indicates other-
3 wise, have the following meanings:—

4 “Area median income”, the median income adjusted for family
5 size as determined by HUD for the Boston MSA.

6 “Campus”, the parcels of state-owned land in the town of Med-
7 field consisting of portions of the former Medfield state hospital,
8 and the buildings and improvements thereon and the rights, ease-
9 ments and other interests appurtenant thereto, including parcels A,
10 A-1, A-2, B, C, D, E, F, G and H (as shown on the plan, as here-
11 inafter defined).

12 “Client housing plan”, the description of the relative location
13 and mix of the one and two bedroom units which the developer of
14 the disposition parcel shall provide and set aside for clients whose
15 annual income does not exceed 80% of the area median income in
16 accordance with Section 6(d) hereof.

17 “Clients”, clients of the department of mental health.

18 “Commissioner”, the commissioner of the division of capital
19 asset management and maintenance.

20 “Developer”, any person, entity, or governmental body that
21 acquires an ownership or leasehold interest in the disposition
22 parcel, as hereinafter defined, or a portion thereof pursuant to this
23 act.

24 “Disposition parcel”, parcel A, parcel B and parcel G as shown
25 on the plan, containing approximately 134 acres in the aggregate,
26 and the buildings and improvements thereon and the rights, ease-
27 ments and other interests appurtenant thereto.

28 “Division”, the division of capital asset management and main-
29 tenance.

30 “MOA”, the memorandum of agreement to be executed
31 between the town of Medfield and the division of capital asset
32 management and maintenance.

33 “Permitted housing units,” the total number of housing units to
34 be constructed on the disposition parcel consistent with the reuse
35 plan.

36 “Plan” the plan entitled “Compiled Subdivision Plan, Medfield
37 State Hospital, Medfield, Massachusetts, prepared for Division of
38 Capital Asset Management” dated June 14, 2005, prepared by
39 Judith Nitsch Engineering, Inc.,” on file with the division.

40 “Reuse plan”, the Medfield state hospital reuse plan prepared
41 by the division and approved by the board of selectmen of the
42 town of Medfield on November 15, 2005, as the same may be
43 enhanced, refined or amended from time to time by the division in
44 accordance with this act with the consent of the Medfield Board
45 of Selectmen.

46 “Survey”, a survey of the campus undertaken by the commis-
47 sioner in accordance with the plan and pursuant to section two.

48 “Town”, the town of Medfield acting by and through its board
49 of selectmen.

1 SECTION 4. The commissioner is hereby authorized to prepare
2 a survey and to undertake such additional planning and studies
3 and the preparation of plans and specifications, and, after consul-
4 tation with the board of selectmen of the town of Medfield, to
5 enhance, refine and amend the reuse plan as the commissioner
6 deems necessary. The survey shall define the boundaries of the
7 campus, of the parcels referred to in this act, and of the disposi-
8 tion parcel, substantially as set forth on the plan, provided, how-
9 ever, that the exact size and boundaries of the parcels referred to
10 in this act shall be determined by the commissioner.

1 SECTION 5. After the completion of the transactions autho-
2 rized by Section 6, the commissioner is hereby authorized to
3 transfer care and custody of parcel A-1, parcel A-2, and parcel C
4 as shown on the plan and subject to such easements as the com-
5 missioner may elect, to the department of conservation and recre-
6 ation for open space and passive recreational purposes. Said
7 transfer shall be without consideration and shall not be subject to
8 Chapter 7 of the General Laws.

1 SECTION 6. After the completion of the transactions autho-
2 rized by Section 6, the commissioner is hereby authorized to
3 transfer care and custody of parcel D as shown on the plan to the
4 executive office of public safety for use as a firing range and open
5 space. Said transfer shall be without consideration and shall not be
6 subject to Chapter 7 of the General Laws.

1 SECTION 7. After the completion of the transactions autho-
2 rized by Section 8, the commissioner may, notwithstanding Sec-
3 tions 40E to 40I, inclusive, of Chapter 7 of the General Laws, or
4 any other general or special law to the contrary, to transfer to the
5 town of Medfield, for nominal consideration, all of the Common-
6 wealth's right, title and interest in the water tower located on
7 parcel A as shown on the plan and in the parcel of land on which
8 such water tower is located as shown on the plan and to grant to
9 the town of Medfield such rights of way or easements for access,
10 egress, and utilities across parcel A as the commissioner deems
11 reasonable and necessary for the use of said water tower by the
12 town of Medfield. It shall be a condition of such transfer and grant

13 that the town shall operate, maintain, repair and replace said water
14 tower and its appurtenant facilities for the purpose of providing
15 water in the town. Any deed conveying said parcel of land to the
16 town of Medfield shall contain a provision that if the parcel ceases
17 to be used for the purpose set forth in this section, then upon noti-
18 fication to the owner by the Commonwealth and recording of such
19 notification with the appropriate registry of deeds or registry dis-
20 trict of the land court, title to said parcel shall revert to the Com-
21 monwealth.

1 SECTION 8. (a) Notwithstanding Sections 40E to 40I, inclu-
2 sive of Chapter 7 of the General Laws, or any other general or
3 special law to the contrary, the commissioner may sell, lease for a
4 term or terms of up to 99 years, including all renewals and exten-
5 sions, or otherwise grant, convey, or transfer to one or more devel-
6 opers an interest in the disposition parcel, or portions thereof, and
7 any buildings, improvements and facilities thereon, subject to the
8 provisions of this act and the reuse plan and on such terms and
9 conditions as said commissioner deems appropriate; provided,
10 however, that no portion of the disposition parcel may be used for
11 an incinerator, landfill, or other means of permanent disposal of
12 solid or hazardous waste, house of correction, jail or prison.

13 (b) Prior to any such conveyance or lease, the commissioner
14 shall, in consultation with the department of agricultural resources
15 and with the department of conservation and recreation, delineate
16 1 or more areas of parcel B to be protected by agricultural preser-
17 vation restrictions or conservation restrictions, and shall deter-
18 mine the terms and conditions of such restrictions. Without
19 limiting the foregoing, such restrictions shall limit the use of
20 parcel B to agricultural open space, recreational and ancillary uses
21 on conditions as agreed upon by the commissioner and the depart-
22 ment of conservation and recreation and the department of agri-
23 cultural resources. The commissioner shall incorporate such
24 restrictions in any deed conveying all or any portion of parcel B to
25 be so protected. In connection with any sale of all or any portion
26 of parcel B by the Commonwealth in accordance with this section,
27 the commissioner shall require that the purchaser immediately
28 after it acquires title convey to the town of Medfield, for nominal
29 consideration, parcel B or such portion of parcel B as may be con-

30 veyed to said purchaser. In connection with any lease of all or any
31 portion of parcel B by the Commonwealth in accordance with this
32 section, the commissioner shall require that the lessee shall imme-
33 diately lease to the town of Medfield, for nominal consideration,
34 parcel B or such portion of parcel B as may be leased to said
35 lessee. Upon any such conveyance or lease to the town of Med-
36 field, said town shall be responsible for the use and maintenance
37 of parcel B or the portion thereof so conveyed or leased to the
38 town for agricultural open space, recreational and ancillary uses.

39 (c) The commissioner shall dispose of the disposition parcel, or
40 portions thereof, utilizing appropriate competitive processes and
41 procedures. The selection of a qualified developer for the disposi-
42 tion parcel or any portion thereof shall be made primarily based
43 on the selected developer's plan to meet the requirements for pro-
44 viding affordable housing for clients, as set forth in subsection (d)
45 of this section, the financial feasibility of the proposed develop-
46 ment, the developer's experience with projects of this size and
47 complexity, conformity with the provisions of this act and in com-
48 pliance with the reuse plan and the MOA, and such other factors
49 as the commissioner deems appropriate. The commissioner and
50 the commissioner of mental health shall, after consultation with
51 the town, jointly select the client housing plan submitted by bid-
52 ders that best meets the requirements of this act, taking into
53 account the criteria for selection of a qualified developer pursuant
54 to the immediately preceding sentence. In order to ensure that
55 substantial benefit is derived for clients of the department of
56 mental health from the transfer of the disposition parcel pursuant
57 to this act, the commissioner shall provide the commissioner of
58 the department of mental health with an opportunity to review and
59 comment on any request for proposals, to review proposals
60 received and to make recommendations concerning the designa-
61 tion of one or more developers. The commissioner shall also pro-
62 vide the town with an opportunity to review and comment on any
63 request for proposals, to review proposals received and to make
64 recommendations concerning the designation of one or more
65 developers. The designated developer shall be required to imple-
66 ment the approved client housing plan.

67 Upon the expiration of any lease entered into under the provi-
68 sions of this act, the commissioner shall have the authority to dis-

69 pose of the disposition parcel or portions thereof so leased in
70 accordance with this act, but notwithstanding Sections 40E
71 through 40I, inclusive, of Chapter 7 of the General Laws, or any
72 other general or special law to the contrary.

73 (d) The Commonwealth recognizes the need for affordable
74 housing for clients and therefore requires that the developer of the
75 disposition parcel provide and set aside units of rental housing for
76 clients whose annual income does not exceed 80% of the area
77 median income in accordance with the following: (i) the number
78 of set-aside units shall equal 10 percent of the number of per-
79 mitted housing units, but in no event shall less than 44 units set-
80 aside units be provided, (ii) 24 of said set-aside rental housing
81 units shall be constructed on the disposition parcel, (iii) the bal-
82 ance of said set-aside rental housing units, but in no event less
83 than 20, shall be located elsewhere in the department of mental
84 health's metro suburban area, (iv) said set-aside rental housing
85 units shall include a mix of one and two bedroom units, and (v)
86 each of said units shall be set aside for clients for as long as the
87 disposition parcel is used for housing, but in any event for not less
88 than 30 years. The department of mental health shall determine,
89 arrange and provide appropriate support services for clients
90 residing in such units. The developer and the department of
91 mental health, the Massachusetts housing finance agency, and the
92 department of housing and community development, or any suc-
93 cessor thereto, shall be required to use all reasonable efforts
94 before and after transfer of the disposition parcel to secure
95 housing subsidies for clients whose annual income may be as low
96 as 15% of the area median income, and shall enter into a memo-
97 randum of understanding prior to and conditional to the transfer of
98 the disposition parcel to said developer outlining their respective
99 responsibilities, commitments, and obligations respecting securing
100 such subsidies from both state and federal sources, provided, how-
101 ever, that any agreement by the department of mental health or the
102 department of housing and community development to provide
103 subsidies shall be subject to appropriation, and provided, further,
104 that nothing herein shall be deemed to require that the department
105 of mental health and the department of housing and community
106 development secure subsidies through their collective efforts for
107 more than 44 rental housing units. The selected developer shall

108 not be required to fund the subsidies required to allow such clients
109 to afford said units.

110 (e) The developer of the disposition parcel or of any portion
111 thereof, shall provide pedestrian and horse trails over the disposi-
112 tion parcel that will link parcel A-1 and parcel A-2.

113 (f) The developer of the disposition parcel or of any portion
114 thereof shall provide for the use of all public recreation facilities
115 now existing or hereafter created on the disposition parcel by the
116 general public.

117 (g) The developer shall preserve, maintain and protect the
118 existing cemetery located on parcel E as shown on the plan.

119 (h) At least 30 days before the date on which bids, proposals, or
120 other offers to purchase or lease the disposition parcel, or any por-
121 tion thereof, are due, the commissioner shall place a notice in the
122 central register published by the state secretary pursuant to
123 Section 20A of Chapter 9 of the General Laws stating the avail-
124 ability of such property, the nature of the competitive process and
125 other information deemed relevant, including the time, place and
126 manner for the submission of bids, proposals and the opening
127 thereof.

1 SECTION 9. The commissioner is hereby authorized to retain
2 or grant rights of way or easements for access, egress, utilities and
3 drainage across the disposition parcel and across other Common-
4 wealth property (other than property under the care and control of
5 the department of conservation and recreation as of the effective
6 date of this act) contiguous to the disposition parcel, and the Com-
7 monwealth may accept from any developer or developers rights of
8 way or easements in roadways or across the disposition parcel to
9 be conveyed by deed or leased pursuant to this act for the pur-
10 poses of access, egress, drainage and utilities as the commissioner
11 deems necessary and appropriate to carry out the purposes of the
12 reuse plan and this act.

1 SECTION 10. The grantee or lessee shall be responsible for all
2 costs including, but not limited to, appraisals, surveys, plans,
3 recordings and any other expenses relating to the transfer, as shall
4 be deemed necessary by the commissioner.

1 SECTION 11. The provisions of this act shall be deemed to
2 provide an additional, alternative and complete method for accom-
3 plishing the purposes of this act and shall be deemed and con-
4 strued to be supplemental and additional to, and not in derogation
5 of, powers conferred upon the commissioner and others by law;
6 provided, however, that insofar as the provisions of other laws are
7 inconsistent with the provisions of this act, the provisions of this
8 act shall be controlling.